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Regulatory
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Proposed Regulation Agency Background Document

Agency name	Child Day-Care Council
Virginia Administrative Code (VAC) citation	22VAC 15 -10
Regulation title	Public Participation Guidelines
Action title	Improve Clarity and Implement Recent Legislative Changes
Document preparation date	September 8, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This regulation sets forth the procedures the Child Day-Care Council uses to obtain public input when developing, revising or repealing a regulation. This regulation covers the following topics: petitions from interested parties, solicitation of input, public hearings, and withdrawal of regulations. The proposed regulation provides for electronic transmission of information and incorporates recent statutory changes.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 2.2-4007 D. of the Code of Virginia mandates that the Child Day-Care Council promulgate this regulation. Section 63.2-1735 of the Code of Virginia vests the Child Day-Care Council with the authority to promulgate regulations for licensure and operation of child day centers in the Commonwealth.

The Office of the Attorney General certifies that the Child Day-Care Council has the authority to promulgate this regulation and that it comports with applicable law.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

This regulation establishes procedures to solicit input from interested parties prior to the formation and drafting of regulations and during the formation, promulgation and final adoption of regulations by the Child Day-Care Council and the Department of Social Services. The Virginia Administrative Process Act requires that this regulation be in place before the Child Day-Care Council can adopt any other regulation. This regulation permits the Council to execute its statutory responsibilities for promulgating regulations to carry out the purposes of § 63.2-1735 of the Code of Virginia.

The Child Day-Care Council has promulgated three regulations to administer programs for the licensure and operation of child day centers. The intent of these programs is to protect and ensure the health, safety and welfare of citizens utilizing child day care services throughout the Commonwealth.

The goal of these amendments is to increase participation, reduce cost and improve the speed of communication through the electronic transmission of public comment and to make editorial changes throughout the regulation to improve clarity.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

This regulatory action provides for the electronic transmission of information to include e-mail notifications, receiving public comment by e-mail and use of the internet for dissemination and collection of comment on regulatory actions. The action also incorporates recent statutory changes that concern public participation in the regulatory process.

Section 22 VAC 15-10-40 is amended to reflect the provisions of Chapter 241, 2002 Acts of Assembly. Section 22 VAC 15-10-50 is amended to reflect the statutory changes of Chapter 717, 1995 Acts of Assembly which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

These regulations benefit the public by letting individuals and regulated entities know how they may be involved in the development and promulgation of the Child Day-Care Council's regulations. These regulations benefit the Commonwealth by permitting the Child Day-Care Council to fulfill its statutory mandate to promulgate regulations necessary to implement § 63.2-1735 of the Code of Virginia.

This regulation creates no known disadvantage to the public or the Commonwealth.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None.
Projected cost of the regulation on localities	None.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Users and providers of child care services.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	As of August 2, 2005, 2,831 licensed child day centers in Virginia, most of which are small businesses.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	Not applicable.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

This regulation is specifically mandated by § 2.2-4007 D. of the Code of Virginia. Other alternatives are not an option.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

No comment was received during the 30-day notice of intended regulatory action comment period that began June 27, 2005, and ended July 27, 2005.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The suggested amendments to this regulation will enhance and increase the opportunities for public participation in the process for development and promulgation of the Child Day-Care Council regulations. Thus, the Council will have better means for considering the interest and concerns of families when promulgating and approving regulations. This suggested regulatory action respects the authority and rights of parents in the education, nurturing, and supervision of their children. It has no negative impact on economic self-sufficiency, self-pride, the assumption of personal responsibility, family income, or marital commitment.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
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40		Specifies that the council or the department may respond to a petition for rulemaking.	Specifies that the Council shall meet the new requirements of § 2.2-4007 (Chapter 241, 2002 Acts of Assembly) and that only the Council is authorized to respond to a petition for rulemaking.
50, subsections E., F., G., and H.		States that the Child Day-Care Council takes certain actions.	Clarified that certain actions are taken by the Department of Social Services on behalf of the Child Day-Care Council.
50, subsection H.		Requires only the filing of a notice of intended regulatory action with the Registrar of Regulations.	Requires the filing of a notice of intended regulatory action with the Registrar of Regulations and distribution to persons on the interested parties lists.
50, subsection I.		Mandates the publication of a proposed action in a newspaper of general circulation published at the state capital.	Makes discretionary the publication of a proposed action in any newspaper as determined by the Child Day-Care Council (Chapter 717, 1995 Acts of Assembly).
50, subsection J.			Adds a new provision that the Child Day-Care Council shall consider the comment received during the proposed public comment period in approving a final regulation and that the Department of Social Services shall provide the comment received to the Council.
50, subsection K.			Adds a new requirement the Department of Social Services to prepare a summary of all public comment received during the proposed comment period and to make it public.

The proposed changes make editorial changes throughout the regulation to improve clarity. Section 22 VAC 15-10-40 will be amended to reflect the provisions of Chapter 241, 2002 Acts of Assembly. Section 22 VAC 15-10-50 will be amended to reflect the statutory changes of Chapter 717, 1995 Acts of Assembly which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.